

Introduced by Senator De León

February 10, 2011

An act to amend Section 38505 of, and to add Section 38573 to, the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 246, as introduced, De León. California Global Warming Solutions Act of 2006: offsets.

The California Global Warming Solutions Act of 2006 designates the State Air Resources Board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. The state board is required to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020, and to adopt rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective greenhouse gas emission reductions. The state board is authorized to adopt market-based compliance mechanisms, as defined, meeting specified requirements to be used for compliance with those regulations.

This bill would require the state board to meet specified requirements relating to verification and oversight of compliance offsets, as defined, if the state board allows the use of compliance offsets as part of a regulation adopted pursuant to the act.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) A transition to a clean energy economy is essential for
4 meeting the state's long-term goals for reducing global warming
5 pollution and can also result in substantial air quality, health,
6 economic, and environmental benefits.

7 (b) The State Air Resources Board has voted to adopt a
8 market-based regulation pursuant to the California Global Warming
9 Solutions Act of 2006 that sets a limit on emissions of greenhouse
10 gases by the state's largest emitters and that allows for flexible
11 compliance including the expansive use of offsets.

12 (c) Compliance offsets allow regulated entities to purchase
13 emission reduction credits from unregulated entities in sectors that
14 are not subject to emission limits, instead of directly reducing their
15 own emissions or causing emissions to be reduced amongst other
16 regulated entities in California.

17 (d) Offsets are inherently risky and difficult to quantify. Large
18 portions of offsets claimed in other global warming compliance
19 programs, such as the United Nations' Clean Development
20 Mechanism, have been proven to be fake.

21 (e) In order for compliance offsets to be of value in reducing
22 greenhouse gas emissions and achieving the requirements of the
23 state's landmark climate solutions law, they should be proven to
24 be real and additional. The integrity of any market-based regulation
25 that includes offsets depends on strict oversight, verification,
26 monitoring, and enforcement of the offsets program.

27 (f) Pursuant to Section 38597 of the Health and Safety Code,
28 the state board has the authority to assess fees on regulated emitters
29 of greenhouse gases to be used for the purposes of carrying out
30 the California Global Warming Solutions Act of 2006, including
31 oversight and enforcement of all elements of any market-based
32 regulation.

33 (g) The costs of compliance offsets should accurately include
34 the true cost of ensuring that offset protocols are developed based
35 on the best existing science and that the compliance offsets are
36 monitored, verified, audited, enforced, and tracked by one or more
37 state regulatory agencies, not third-party, for-profit offset
38 businesses.

1 SEC. 2. Section 38505 of the Health and Safety Code is
2 amended to read:

3 38505. For the purposes of this division, the following terms
4 have the following meanings:

5 (a) “Allowance” means an authorization to emit, ~~during a~~
6 ~~specified year, up to~~ *not more than* one ton of carbon dioxide
7 *equivalent in a specified year.*

8 (b) “Alternative compliance mechanism” means an action
9 undertaken by a greenhouse gas emission source that achieves the
10 equivalent reduction of greenhouse gas emissions over the same
11 time period as a direct emission reduction, and that is approved
12 by the state board. “Alternative compliance mechanism” includes,
13 but is not limited to, a flexible compliance schedule, alternative
14 control technology, a process change, or a product substitution.

15 (c) “Carbon dioxide equivalent” means the amount of carbon
16 dioxide by weight that would produce the same global warming
17 impact as a given weight of another greenhouse gas, based on the
18 best available science, including from the Intergovernmental Panel
19 on Climate Change.

20 (d) *“Compliance offset” means a quantified reduction in*
21 *emissions of greenhouse gases in a sector different from the sector*
22 *or sectors regulated by a greenhouse gas emission limit for which*
23 *a market-based compliance mechanism has been adopted by the*
24 *state board, that is used for compliance of that greenhouse gas*
25 *emission limit by a greenhouse gas emission source regulated by*
26 *that limit.*

27 ~~(e)~~

28 (e) “Cost-effective” or “cost-effectiveness” means the cost per
29 unit of reduced emissions of greenhouse gases adjusted for its
30 global warming potential.

31 ~~(e)~~

32 (f) “Direct emission reduction” means a greenhouse gas emission
33 reduction action made by a greenhouse gas emission source at that
34 source.

35 ~~(f)~~

36 (g) “Emissions reduction measure” means programs, measures,
37 standards, and alternative compliance mechanisms authorized
38 pursuant to this division, applicable to sources or categories of
39 sources, that are designed to reduce emissions of greenhouse gases.

40 ~~(g)~~

1 (h) “Greenhouse gas” or “greenhouse gases” includes all of the
2 following gases:

- 3 (1) Carbon dioxide.
- 4 (2) Methane.
- 5 (3) Nitrous oxide.
- 6 (4) Hydrofluorocarbons.
- 7 (5) Perfluorocarbons.
- 8 (6) Sulfur hexafluoride.
- 9 (7) Nitrogen trifluoride.

10 ~~(h)~~

11 (i) “Greenhouse gas emissions limit” means an authorization,
12 during a specified year, to emit up to a level of greenhouse gases
13 specified by the state board, expressed in tons of carbon dioxide
14 equivalents.

15 ~~(i)~~

16 (j) “Greenhouse gas emission source” or “source” means any
17 source, or category of sources, of greenhouse gas emissions whose
18 emissions are at a level of significance, as determined by the state
19 board, that its participation in the program established under this
20 division will enable the state board to effectively reduce greenhouse
21 gas emissions and monitor compliance with the statewide
22 greenhouse gas emissions limit.

23 ~~(j)~~

24 (k) “Leakage” means a reduction in emissions of greenhouse
25 gases within the state that is offset by an increase in emissions of
26 greenhouse gases outside the state.

27 ~~(k)~~

28 (l) “Market-based compliance mechanism” means either of the
29 following:

30 (1) A system of market-based declining annual aggregate
31 emissions limitations for sources or categories of sources that emit
32 greenhouse gases.

33 (2) Greenhouse gas emissions exchanges, banking, credits, and
34 other transactions, governed by rules and protocols established by
35 the state board, that result in the same greenhouse gas emission
36 reduction, over the same time period, as direct compliance with a
37 greenhouse gas emission limit or emission reduction measure
38 adopted by the state board pursuant to this division.

39 ~~(l)~~

40 (m) “State board” means the State Air Resources Board.

1 ~~(m)~~

2 (n) “Statewide greenhouse gas emissions” means the total annual
3 emissions of greenhouse gases in the state, including all emissions
4 of greenhouse gases from the generation of electricity delivered
5 to and consumed in California, accounting for transmission and
6 distribution line losses, whether the electricity is generated in state
7 or imported. Statewide emissions shall be expressed in tons of
8 carbon dioxide equivalents.

9 ~~(n)~~

10 (o) “Statewide greenhouse gas emissions limit” or “statewide
11 emissions limit” means the maximum allowable level of statewide
12 greenhouse gas emissions in 2020, as determined by the state board
13 pursuant to Part 3 (commencing with Section 38550).

14 SEC. 3. Section 38573 is added to the Health and Safety Code,
15 to read:

16 38573. If the state board allows the use of compliance offsets
17 as part of a regulation adopted pursuant to this division, the state
18 board shall ensure all of the following:

19 (a) That each compliance offset is permanently retired and the
20 emission reductions represented by the compliance offset have not
21 been claimed by another person or entity.

22 (b) That the compliance offset does not cause or contribute to
23 significant adverse effects on human health or the environment,
24 as determined by the state board.

25 (c) That the state board maintains authority over the eligibility
26 of a compliance offset.

27 (d) That the state board has conducted an independent review
28 of all third-party claims regarding a compliance offset before a
29 compliance offset is credited.

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